



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

ESTRADA TRUST,	§	
Plaintiff,	§	
	§	
vs.	§	Civil Action No. 4:19-02968-MGL
	§	
ALL ASSETS HELD IN 57995-019/ISMAEL	§	
ESTRADA,	§	
Defendant.	§	
	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S COMPLAINT**

Plaintiff Estrada Trust (Estrada), proceeding pro se, filed this in rem action seeking recovery of all property in Defendant All Assets Held in 57995-019's possession. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Estrada's Complaint be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which a specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de

novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see* Fed. R. Civ. P. 72(b).

The Magistrate Judge filed the Report on October 25, 2019. Estrada filed his Objection to the Report (Objection) on November 7, 2019. The Court has reviewed the Objection and holds it to be without merit. It will therefore enter judgment accordingly.

Estrada’s solely objects he does not consent to the jurisdiction of the magistrate judge. A judge may designate a magistrate judge to “submit to a judge of the court proposed findings of fact and recommendations for the disposition” of a case, when designated by a judge. 28 U.S.C. § 636(b)(1)(B). Under the local rules, “[a]ll pretrial proceedings involving litigation by individuals proceeding *pro se*” are automatically designated to a magistrate judge. Local Rule 73.02(B)(2). The Fourth Circuit permits judicial references under 28 U.S.C. § 636(b)(1)(B) without party consent. *Orpiano*, 687 F.2d at 46. Thus, Estrada’s objection fails.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Estrada’s objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court Estrada’s amended complaint is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

IT IS SO ORDERED.

Signed this 25th day of November 2019 in Columbia, South Carolina.

s/ Mary Geiger Lewis _____
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.